

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, May 11, 2005, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jon Carlson, Gene Carroll, Roger Larson, Gerry Krieser, Dan Marvin, Melinda Pearson, Mary Bills-Strand, Lynn Sunderman and Tommy Taylor. Marvin Krout, Ray Hill, Mike DeKalb, Brian Will, Becky Horner, Duncan Ross, Greg Czaplewski, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Mary Bills-Strand called the meeting to order and requested a motion approving the minutes for the regular meeting held April 27, 2005. Motion for approval made by Carroll, seconded by Marvin and carried 9-0: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Bills-Strand, Sunderman and Taylor voting 'yes'.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

May 11, 2005

Members present: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Bills-Strand, Sunderman and Taylor.

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 05018, SPECIAL PERMIT NO. 05021, COUNTY FINAL PLAT NO. 05040, COUNTY FINAL PLAT NO. 05045 AND COUNTY COMPREHENSIVE PLAN CONFORMANCE NO. 05003.**

Ex Parte Communications: None.

Larson moved to approve the Consent Agenda, seconded by Sunderman and carried 9-0: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Bills-Strand, Sunderman and Taylor voting 'yes'.

Mayor Coleen Seng presented an award of appreciation to Dan Marvin for his volunteer service on the Planning Commission. Chair Bills-Strand then read Resolution No. PC-00923 into the record, acknowledging and expressing appreciation to Dan Marvin for his service on the Planning Commission from 2003-2005. Upon motion duly made by Carlson and seconded by Pearson, Resolution No. PC-00023 was unanimously approved 8-0: Carroll, Pearson, Krieser, Sunderman, Carlson, Taylor, Larson and Bills-Strand voting 'yes'; Marvin abstaining.

CHANGE OF ZONE NO. 05004
PINE GARDEN PLANNED UNIT DEVELOPMENT,
ON PROPERTY GENERALLY LOCATED
AT S. 84TH STREET AND OLD CHENEY ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 11, 2005

Members present: Carroll, Pearson, Marvin, Krieser, Sunderman, Carlson, Taylor, Larson and Bills-Strand.

Staff recommendation: Denial.

Ex Parte Communications: None.

Greg Czaplewski of Planning staff addressed the history of the project, which was initially submitted in January of this year. The Planning Commission held the public hearing in February. The staff recommendation was conditional approval at that time. The applicant has made most of the changes that were requested and resubmitted in April; however, a couple of significant changes from the original proposal were shown on the resubmittal, which is the reason this application is coming back before the Commission today.

The first significant change is in the commercial area, showing several pad sites and a driveway connecting the commercial area to the residential. The other change was the elimination of use limitations that were originally proposed.

Czaplewski also submitted the "notes" on the plan. Some of the conditions of approval require changes to these "notes" which are being requested to be changed by staff. He also submitted the "notes" as originally proposed in January. The staff conditions require four "note" changes. Condition #1.1.4 relates to Note 18, which does not identify any specific uses for the commercial area and does not identify any uses that are prohibited in that area. As originally proposed, Note 18 listed some use prohibitions which were arrived at between the

applicant and city staff, and part of the reason for prohibiting certain uses had to do with access to the site. This project has a commercial and a residential element, with the residential being served from the north off of Wendell Way with access off 84th Street and another commercial access off of Old Cheney Road. Those accesses were supported by staff as long as there were use limitation on the commercial uses.

Pearson noted that the staff is recommending denial; however, the conditions of approval provided by staff takes it back to what was approved in February. Czaplewski concurred. The staff is recommending denial as now proposed. The conditions submitted would essentially take it back to the way it was in January, including the use limitations. The January plan was never taken forward to the City Council.

Marvin inquired about the wait period if the Planning Commission and City Council deny the proposal. Ray Hill of Planning staff advised that the code requirement states that if a new application is “substantially similar”, they would not be able to file a new application for one year. Staff would need to make the determination as to “substantially similar”.

Proponents

1. Mike Marsh of Realty Trust Group, 2300 S. 48th Street, gave a brief history on the property. In September of 2000, the entire property was approved for B-2 zoning and subsequently vetoed by the Mayor. Now, five years later, they are back and have worked with the Planning Department on a proposal for three-fourths townhomes and one-fourth commercial. The only reason this application has come back before the Commission is Note 18, Condition #1.1.4. In February, there was a mistake in the sense that he had the understanding and agreement with the Planning Department verbally that the applicant would come back before the Planning Commission when they had a use in mind for the commercial area, and that it would not be unreasonably prohibited. The only reason this application is back before the Commission is to correct a mistake that was made and to which the applicant had not agreed. It is a burden to have to come back with the specific use when they know what it is going to be, and they want reasonableness to prevail.

2. Brian Capstans appeared on behalf of **Realty Trust Group** and requested an amendment to Condition #1.2.2:

~~Show that~~ Revise the grading in the commercial/retail area will provide a slope no greater than 3% between the driveway connection to Old Cheney Road and the connection between the commercial/retail and residential uses to the satisfaction of Public Works & Utilities.

Carstens also requested that #1.1.4 regarding Note 18 be deleted.

There was no testimony in opposition.

Czaplewski reiterated that staff is recommending denial of the project, including the waivers. If the Commission wants to recommend approval, the conditions set forth in the staff report should be imposed, which includes approval of all of the waivers, except the waiver for frontage and access.

Marvin Krout, Director of Planning, explained that the staff recommendation was written as a denial as the plan has been changed. But he clarified that the staff is really recommending what was recommended previously – the staff could agree to this plan with the driveway access close to the intersection (which Public Works would never normally approve because we were intending to limit the use so that it would not affect the intersection and the residential to the north). Possibly, it would be easier to think about conditional approval, with the same conditions as recommended previously. Condition #1.1.4 restricts it from being a high traffic use. The driveway was part of an agreement and understanding we thought we had with the applicant about limiting the uses. The applicant did not really understand that they would be bound by the language in Note 18 or that it would really mean something, so they are asking for that language to be stricken.

Bills-Strand asked whether a bank generates that much traffic. Krout stated that a bank of 6,000 sq. ft. with drive-thru windows is a very big peak hour traffic generator. The problem is that a lot of cars are moving in and out of traffic and a 6,000 sq. ft. bank could generate 1200 or more trips per day.

Pearson asked whether the applicant could submit their previous approval to the City Council if this is denied. Marvin indicated that this option was offered to the applicant, but the staff would need to inform the Council that that is not what was advertised. We urged the applicant to go back through the Planning Commission to properly advertise the change.

Sunderman noted that the applicant is requesting a trip count restriction. Why not that as opposed to use restriction? Krout does not believe the applicant and staff would be able to come to agreement on a trip cap because they would want something above 1200 trips per day. That discussion about establishing a number has not occurred because the applicant does not want to be restricted on uses. If they were willing to restrict to the general traffic cap, that would mean lower traffic generated uses and he believes they could come to agreement. But, Marvin believes this is an argument about a bank or convenience type uses.

Dennis Bartels of Public Works agreed with the proposed amendment to Condition #1.2.2.

Response by the Applicant

Mike Marsh reiterated that Note #18 (Condition #1.1.4) is the only point to be dealt with at this time. A vote for approval, deleting Condition #1.1.4, allows Realty Trust Group to come back before the Planning Commission once they have a use.

ACTION BY PLANNING COMMISSION:

May 11, 2005

Larson moved approval, with the conditions set forth in the staff report, with amendment to Condition #1.2.2, seconded by Carlson. (The motion does not delete Condition #1.1.4).

Carlson's concern about Condition #1.1.4 is the language, "and use not be unreasonably prohibited". He does not know what that means. It is much clearer to designate the reasonable uses.

Motion for approval, with conditions set forth in the staff report, with the amendment to Condition #1.2.2 requested by the applicant, carried 9-0: Carroll, Pearson, Marvin, Krieser, Sunderman, Carlson, Taylor, Larson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 05019
TO EXPAND THE PREMISES AUTHORIZED
FOR THE SALE OF ALCOHOL FOR CONSUMPTION
ON THE PREMISES, ON PROPERTY GENERALLY
LOCATED AT N. 70TH STREET AND ADAMS STREET:

May 11, 2005

Members present: Carroll, Pearson, Marvin, Krieser, Sunderman, Carlson, Taylor, Larson and Bills-Strand.

Staff recommendation: Two-week deferral.

Ex Parte Communications: None.

The Clerk announced that the staff is requesting a two-week deferral to readvertise this application as an amendment to the Stony Ridge PUD.

Marvin moved to defer, with continued public hearing and action scheduled for May 25, 2005, seconded by Carroll and carried 9-0: Carroll, Pearson, Marvin, Krieser, Sunderman, Carlson, Taylor, Larson and Bills-Strand voting 'yes'.

STREET & ALLEY VACATION NO. 05003
TO VACATE A PORTION OF S. 84TH STREET
GENERALLY LOCATED NORTH AND SOUTH OF THE
INTERSECTION OF SOUTH 84TH STREET AND HIGHWAY 2.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 11, 2005

Members present: Carroll, Pearson, Marvin, Krieser, Sunderman, Carlson, Taylor, Larson and Bills-Strand.

Staff recommendation: A finding of conformance with the Comprehensive Plan.

Ex Parte Communications: None.

1. **Charlie Humble** appeared on behalf of **Mid-America 7th Day Adventists**, and stated that he also represents the other property owners. He agreed with the staff finding of conformance.

2. **DaNay Kalkowski** appeared on behalf of **Eiger Corp.**, one of the property owners. She agreed that the staff report does a good job of explaining this right-of-way exchange and it is in conformance with the Annexation Agreement entered into with the City in 2001. There was no testimony in opposition.

Larson inquired whether 84th Street will cross Highway 2. Dennis Bartels of Public Works explained that South 84th Street was reconstructed with a new alignment. The old alignment is what is being vacated.

ACTION BY PLANNING COMMISSION:

May 11, 2005

Marvin moved a finding of conformance, seconded by Carroll and carried 9-0: Carroll, Pearson, Marvin, Krieser, Sunderman, Carlson, Taylor, Larson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

WAIVER NO. 05004
TO WAIVE SIDEWALKS
ON PROPERTY GENERALLY LOCATED
AT NO. 45TH STREET AND HUNTINGTON AVENUE.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 11, 2005

Members present: Carroll, Pearson, Marvin, Krieser, Sunderman, Carlson, Taylor, Larson and Bills-Strand.

Staff recommendation: Denial.

Ex Parte Communications: None.

Tom Cajka of Planning staff submitted an e-mail received just before the meeting from the applicant stating that she cannot attend today because of illness. The communication goes on to state that the applicant agrees to install the sidewalks; however, she is requesting an additional 6-month extension. Cajka stated that this is an issue that may be worked out between the Law Department and the property owner as to how long to defer the installation of the improvement.

Carlson inquired whether the Commission could amend the waiver to a time extension as opposed to waiving the sidewalk. Cajka advised that staff would not agree to a six-month extension. And the extension is something that is handled administratively.

Marvin assumed that if the Planning Commission denies the waiver, it may be possible for the applicant to work out an agreement for an extension of time. Cajka concurred.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

May 11, 2005

Carlson moved denial, seconded by Carroll and carried 9-0: Carroll, Pearson, Marvin, Krieser, Sunderman, Carlson, Taylor, Larson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

(Editorial Note: The applicant withdrew the waiver request on May 12, 2005)

COMPREHENSIVE PLAN AMENDMENT NO. 05013;
ANNEXATION NO. 05009;
CHANGE OF ZONE NO. 04081
FROM I-3 EMPLOYMENT CENTER TO R-3 RESIDENTIAL
AND FROM AG AGRICULTURAL TO I-3 EMPLOYMENT CENTER;
SPECIAL PERMIT NO. 04067, STONE BRIDGE CREEK-THE VILLAS
COMMUNITY UNIT PLAN; and
USE PERMIT NO. 139A,
ON PROPERTY GENERALLY LOCATED
AT HUMPHREY AVENUE AND REDSTONE ROAD.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 11, 2005

Members present: Carroll, Pearson, Marvin, Krieser, Sunderman, Carlson, Taylor, Larson and Bills-Strand.

Staff recommendation: Approval of the Comprehensive Plan Amendment; approval of the Annexation, subject to an Annexation Agreement; approval of the Change of Zone; and conditional approval of the Community Unit Plan and amendment to the Use Permit.

Ex Parte Communications: None.

Becky Horner of Planning staff submitted a letter from the applicant requesting a four-week delay to revise the application, which will require new advertising and a new staff report.

Horner also submitted a letter from an adjacent neighbor in opposition to one of the waiver requests.

Taylor moved to defer, with continued public hearing and action scheduled for June 8, 2005, seconded by Pearson and carried 9-0: Carroll, Pearson, Marvin, Krieser, Sunderman, Carlson, Taylor, Larson and Bills-Strand voting 'yes'.

COMPREHENSIVE PLAN AMENDMENT NO. 04010
TO CHANGE LAND USE DESIGNATION FROM
RESIDENTIAL TO COMMERCIAL

and

CHANGE OF ZONE NO. 05026,
APPLE'S WAY PLANNED UNIT DEVELOPMENT,
ON PROPERTY GENERALLY LOCATED
AT S. 66TH STREET AND HIGHWAY 2.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 11, 2005

Members present: Carroll, Pearson, Marvin, Krieser, Sunderman, Carlson, Taylor, Larson and Bills-Strand.

Staff recommendation: Denial.

Ex Parte Communications: Bills-Strand disclosed that she had a telephone call from Mark Hunzeker explaining what has transpired at the neighborhood meetings; Larson, Krieser and Taylor had the same telephone call from Hunzeker. Marvin stated that he talked with Peter Katt about leaving the Planning Commission and his status of voting either here or at the City Council. Marvin will vote on this project as a Planning Commission member and he will not vote at the City Council. Sunderman had discussions with Mark Hunzeker, Don Kuhn and Kathy Batterman. Pearson had a discussion with Mark Hunzeker.

Brian Will of Planning staff submitted four additional letters in support and three in opposition. He also submitted a letter from Rob Otte on behalf of the Country Meadows Homeowners Association, providing feedback regarding the vote had by the neighborhood association, which indicates that the vote was 20-19 against the project.

Proponents

1. Mark Hunzeker submitted a written memorandum in response to the memorandum the Commission received from Marvin Krout. Hunzeker disagrees with the staff's subjective interpretation of the meaning of "corridor preservation" as it relates to Hwy 2 in the Comprehensive Plan. The Comprehensive Plan clearly speaks to the design of this highway as a high traffic roadway and preservation of right-of-way as opposed to preservation for other purposes:

This diagonal roadway carries significant traffic volumes today and is project to remain as the busiest thoroughfare along the city's southern tier.

Hunzeker went on to state that presently, there are signals every one-half mile from 91st Street all the way to Van Dorn. 20th Street also only serves one side of the highway and pioneers was the same way until just recently.

Hunzeker suggested that the issue of precedent is simply an attempt to scare people. The Public Works report states that the applicant's traffic study shows volumes on Hwy 2 at 2015 as being "not unacceptable". This is clearly an indication that this project is not going to overburden Hwy 2 over the next 10 years. The development that has occurred in this part of the city over the last 20 years and the next 20 years is likely to perceive a need to improve Hwy 2, whether or not this project goes forward, and that is what the traffic study shows.

Hunzeker then suggested that Mr. Krout's standpoint on economic development is splitting hairs to distinguish between primary and local business, particularly as a land use analysis tool. If this project involved a large primary employer, the issue would still be traffic. It is the same issue, regardless of the size of the commercial development or a large employer, whether office or otherwise.

With regard to the issue of cut-through traffic in Country Meadows, Hunzeker purported that raising this as a specter to oppose this project is inconsistent with the staff's recommended land use. Placing 250 dwelling units on this property and not providing a traffic signal to Hwy 2 would cause more cut-through traffic than this project is likely to cause if there is signalized access to Hwy 2. The staff suggested at the last hearing that it might be appropriate to put a street through the outlot in Country Meadows. The applicant does not want to do that. Closing the median access to Hwy 2 would be yet another push to run traffic through Country Meadows. Extending the roadway to the west is a moot issue at this point. The Trade Center access has been maintained and the Trade Center has indicated its support of this project as a means of accessing Hwy 2 at a signalized access.

Hunzeker submitted a letter of support from West Gate Bank.

With further regarding to the Country Meadows Homeowners Association, Hunzeker pointed out that the developer has agreed to submit and record restrictive covenants on the residential portion of the property limiting its development to 32 dwelling units and one-half acre lot sizes. The developer has even offered to make those dwelling units part of the Country Meadows Homeowners Association in order to give Country Meadows architectural control, together with all of the other items in the commitment previously submitted. Hunzeker proposed that the commitment become a binding contract, enforceable by the Country Meadows Homeowners Association.

Hunzeker requested the Commission's approval, subject to the motions to amend which were submitted at the last meeting by Tom Huston.

2. Peter Katt testified on behalf of the applicant, and submitted information from the applicant's traffic engineer at Olsson Associates which discusses the consequences to traffic on Hwy 2. The general impetus of this report is to put into context the claim by City staff that somehow the 11,000 trips generated translate directly into 11,000 plus 14,000 on Hwy 2, equaling 25,000 trips. The traffic engineer's report rebuts that allegation.

Opposition

1. Former Mayor Don Wesely testified on his own behalf. There have been a number of articles about this project and he has been quoted regarding the promise made to Country Meadows when he was Mayor, and the promise that was incorporated in the subarea plan and adopted by the City. "A promise made should be a promise kept," whether it was by the former Mayor, former City Council or former Planning Commission. Wesely believes that this proposal should be rejected, not because the developers are not good people, and not because it would not be wonderful to have Lowe's, but this is the wrong site for a number of reasons.

Before Wesely became Mayor in 1999, this site had been in controversy with the previous administration, and at that time it was a very strong position by the city that a Shopko should not be built there and that it should be a residential development. Home Depot came forward shortly after Wesely took office, looking at a site that had been designated as commercial, and wanted to zone it appropriately. There was very strong opposition from the neighborhood. It looked as though that project would not go forward. He reached a compromise with the neighbors that in exchange for the current Home Depot location, there was a promise made by the city that the Shopko site bordering the neighborhood would not be a commercial development—that it would be a residential development. With that understanding, Home Depot was allowed to be built. After that, the subarea plan went forward, which reiterated the residential nature of this property and that commercial property should be placed to the east where homes have not yet been built. That was adopted and became a policy of the city. Even after that, Wesely continued to have developers come in proposing to develop the property commercially and he said it would not happen. We made a promise and adopted a policy.

Wesely left office and again, the attempt is being made by another developer. Wesely acknowledged that the project does have a lot of appeal, and a 20-19 vote is not an overwhelming show one side or the other. But, this poor neighborhood has been beaten down on this issue for so many years, that they are at a point where they just simply want to resolve it. That is the wrong approach. This city has got to have a level of trust. The Planning Commission should reaffirm that a policy was adopted and the promise made should continue. There are other sites available to Lowe's that are appropriately zoned and designated.

Wesely reiterated that he is not representing anyone. He urged that the city should keep its word and not approve this project.

2. Don Kuhn, 6701 Almira Lane, in Lee's Summit Addition, testified in opposition. There are about three blocks in Lee's Summit which are almost the same length as the blocks in Country Meadows. There are eight houses. Lee's Summit has been around 38 years, yet they do not even get mentioned in this whole thing. Country Meadows wraps around Lee's Summit. Because of the median break in Hwy 2 to get into Home Depot, the Lee's Summit residents are going west onto 66th Street. Why put the driveways in on 66th Street if there is not going to be traffic coming onto 66th Street? The Lee's Summit residents cannot go north very easily, but neither can the traffic cut through, which stacks up clear down to the opening going into Home Depot. 66th Street is not thick enough and the street is breaking down far more than the average street should be.

A few years ago, Hampton drilled a hole through Hwy 2 and put a sewer line on the south side. When that sewer failed, the tanks were pulled out. But Kuhn believes that the laterals are still in the ground and he is concerned about building on top of those laterals. Is that fair? Kuhn believes that Lee's Summit has been shortchanged.

3. Denene Collura, 6500 S. 66th Street in Country Meadows, testified in opposition. With regard to the negotiations between the developer and the homeowners, Collura believes it is a good phrase to say that the neighbors have been "beaten down." There have been multiple meetings and each time an agreement was made, the developer would come back with something different. Collura stated that she would not quibble over the traffic numbers, but it is a neighborhood with children. Even 800 or 900 more cars a day is too many for that neighborhood to handle. She also offered that this issue is much larger than Country Meadows. This affects thousands of people – Family Acres, Sheldon Heights, Southfork, Pine Lake, Country Meadows – all of these people have been watching this corridor for many years and are very concerned about that corridor, one of the last premier corridors coming into Lincoln. The neighbors know the traffic already. There is a traffic light at 56th; then the traffic light at Old Cheney, with 25-30 car lengths. What about the semitrucks shifting up and shifting down? It's like New York City traffic, only adding the semitrucks.

Collura stated that she unsuccessfully attempted to visit with West Gate Bank, but she did visit with the nuns in the house across the Street at 63rd & Hwy 2. The nuns say their property has

been purchased by West Gate Bank and that they are waiting for a precedent on the south side of Hwy 2 to then develop the north side of Hwy 2. This was confirmed by the neighbors in Sheldon Heights. The neighbors are ready to explode if anyone is let in the door. There is a need to talk about the preservation of this neighborhood.

4. Ken Kiewra, also a resident on South 66th Street in Country Meadows, discussed what this proposal is “not”. It is “not in line with city planning”—we have a special subarea plan that says we need to keep a desirable entryway and retain the residential character and minimize traffic. This is quite simple. The solution is to keep commercial development where it is designated and zoned. More importantly, the subarea plan did not fall out of the sky. It was carefully crafted by planning experts with the full input and a lot of labor by our community, fully supported by the Planning Commission, City Council and the Mayor, who made a promise to uphold this plan. It is not right today to consider the developer’s proposal outside the commitment of the subarea plan.

The second “not” is that it is “not sensitive”. How sensitive is it to jam the Country Meadows neighborhood between two big box home improvement stores, each just less than 1/4 mile away? How sensitive is it to add 14,000 cars to Hwy 2 and 1200 more cars to a rural street without lights and without sidewalks? How sensitive is it to back new homes up to a Lowe’s loading dock?

The third “not” is that this is “not a good plan for economic development”. Adding a Lowe’s does not add to a local economy—it subtracts from the 4-5 home improvement stores in the area. What goes into Lowe’s comes out of Home Depot, Menard’s, Wal-Mart and the rest. In terms of economic development, there are only a few people who prosper economically, and those are the developers who bought property zoned AG, speculating that some day they could persuade city leaders that this land should be developed commercially. The developers are snapping up land on the other side of Hwy 2 just waiting to develop commercially. The vultures are circling and watching to see if our city’s subarea plan dies.

Response by the Applicant

Hunzeker challenged that the suggestion that Lowe’s or any other home improvement store would come to Lincoln with the idea only of garnering a piece of what is being done in the way of business from Menard’s and Home Depot is wrong. No one makes the kind of investment that it takes to build, stock and operate those stores, anticipating only that they are going to be able to shave off a little piece from their competition. The idea is that the pie is growing and everyone can share in that. Competition is good for Lincoln.

Hunzeker also suggested that most of the time, proposals like this on property like this get more intense as time goes on. In this case, this developer has spent the last two years working with the neighborhood association in “de-intensifying” this site. The last project was much more intense in terms of residential densities, commercial square footage, etc., than this particular project. The entire list on the commitment is a result of meetings and discussions held with the Country Meadows neighbors.

Furthermore, the Comprehensive Plan is not a static document. It changes over time. It must change over time. It has changed in this area in many, many ways. Originally, the Comprehensive Plan showed the entire area where the Trade Center and Country Meadows now exist as a proposed regional park. We now have the Trade Center and we now have Country Meadows. Arguably, we could have done better in terms of higher density, but it changed. West Gate Bank was shown as agricultural residential up until just a short while ago. Edgewood was originally shown as a 200,000 sq. ft. neighborhood center size project. We now have Home Depot, Pine Lake Plaza, Prairie Lake, and the south side of Hwy 2 across from Prairie Lake. In fact, Pine Lake Road itself is only 12 years old. That road did not go through to 56th Street 12 years ago, and everything that exists south of Pine Lake Road today, including the schools, was not even platted 12 years ago. The plan changes, the city changes. As time goes forward, these kinds of sites need to be developed and they need to be developed in a rational way. Hunzeker urged that this project represents a very good compromise with the neighbors who have been willing to meet with the developer and deal with the issues. He believes this project is sensitive to those neighborhood concerns, preserving the existing terrain and trees, limiting the amount of traffic going back to the Country Meadows neighborhood, providing a signalized access that they would not otherwise get, and it's the only neighborhood on any side of Hwy 2 that has no access to Hwy 2 at a signalized intersection. This is a common sense plan, with the amendments to the conditions of approval proposed by the applicant.

COMPREHENSIVE PLAN AMENDMENT NO. 04010**ACTION BY PLANNING COMMISSION:**

May 11, 2005

Motion #1: Carlson moved to deny, seconded by Carroll.

Carlson stated that he is opposed to strip-malling Hwy 2; he is opposed to dropping a big box supercenter at this location that will jam up Hwy 2 along the entryway corridor. He supports good traffic flow, compatibility of uses, and good neighborhoods. He agrees that the Comprehensive Plan has been a guide for 12 years on this issue. Yes, things change but they should change for the positive. This would be a change for the negative. The subarea plan was recently adopted. He agrees that there has been a lot of discussion but there has been clear direction. There should be no confusion about the city's policy. The city's word and plan ought to mean something.

Marvin disagreed. He believes that this settles the issue—it may not settle it to the agreement made years ago, but it creates a buffer between the existing residential with additional residential; it puts a traffic light in there; it improves traffic flow for the residents and puts resolution to an area that is difficult to develop as residential.

Taylor does not know how you increase traffic flow to improve traffic flow. He was on the Planning Commission when the commitment was made to the community that we would do everything we can to keep this from being a strip mall, looking at the corridor from the entrance from the east as being a sense of beauty and aesthetics. He commended Wesely for making

his presence felt today in terms of good stewardship and good leadership in keeping true to a promise that was made in 1999. He agrees with the staff recommendation.

Carroll observed in looking at the history, that the constraints have not changed. They are what they were 10 years ago. There is not enough room for commercial development on the site. There are three pages of changes to the conditions because there is not enough room to do what they want to do. It is a difficult site to design. He believes that the people who voted in favor in Country Meadows are thinking they would get the gate, which he thinks is wrong, and they are wanting to get the light on Hwy 2, and that is the only reason they are in favor. They do not realize the consequences.

Pearson commented that she is a big fan of past Mayors, but she does not know how or what promises were made so all she can do is vote on the information that the Commission has received. She worked on the Comprehensive Plan Committee but things do change. This morning she got up very early and drove out to Hwy 2 and came in from 90th Street. Coming in she hit 87th Street, and what a shock—that huge commercial development and we haven't even seen what is coming on the south side—hotels. You then hit 84th Street with Home Depot, which sits down in a hole and you see a black fence. You keep going and the site we are talking about is an incredibly beautiful site with two ponds and a lot of trees. That beauty is continued on Hwy 2 because the railroad is on one side and the city owns land on the other side, which is a trail. So the corridor is kept on Hwy 2 because of city foresight in purchasing the land and the railroad. This site does not have that protection. It would have been very wise for the city to purchase this parcel for a park, but that is long gone and unfortunately, she would love to see it stay this way but she does not see there is any chance of that.

Larson stated that he has swayed back and forth on this. He respects former Mayor Wesely for coming today and reminding the promise that was made, but on the other hand, he also believes that the city is almost getting the reputation of turning business away. Lowe's is a kind of retailer that draws from a large area. It is not like putting another McDonald's on another corner. This would expand our market. He believes that the developers have created enough of a buffer that he will vote against denial.

Bills-Strand indicated that she would also be voting against denial. She agrees that this creates the compromise that allows low density housing to buffer Country Meadows. Without this compromise, she believes Country Meadows will be disappointed with the higher density residential.

Motion to deny failed 4-5: Carroll, Krieser, Carlson and Taylor voting 'yes'; Pearson, Marvin, Sunderman, Larson and Bills-Strand voting 'no'.

Motion #2: Marvin moved approval, seconded by Sunderman and carried 5-4: Pearson, Marvin, Sunderman, Larson and Bills-Strand voting 'yes'; Carroll, Krieser, Carlson and Taylor voting 'no'. This is a recommendation to the City Council and the Lancaster County Board.

CHANGE OF ZONE NO. 05026

ACTION BY PLANNING COMMISSION:

May 11, 2005

Motion #1: Taylor moved to deny, seconded by Carlson.

Carlson believes it is a small site for commercial. There are plenty of vacant sites available for commercial. If the commercial areas look bad at 87th and 70th, we should not make it look worse by adding this at 66th Street.

Carroll thought it interesting that two meetings ago the Planning Commission recommended denial on 84th and Adams (supposedly with a Wal-Mart) with the conjecture that there was going to be a traffic problem without a traffic study. Here, we have a traffic study that says we are going to have a traffic problem on this site. We say no to conjecture, yet we are going to approve something where we know there are going to be traffic problems? The city is open to all business but there needs to be a perfect site for those businesses (Wal-Mart and Lowe's) to be located.

Pearson does not believe it is a discussion between Lowe's and Wal-Mart. It's the difference between 84th Street and Hwy 2. Pearson then indicated that she will be making a motion to amend to not allow any single building occupant/commercial development to exceed 90,000 sq. ft.

Taylor recalled that one of the selling points of Home Depot was that the area was not able to be sold for residential anyway because of the grade. He thought Home Depot was a good use for that land. But, Taylor does not believe this area is unattractive for residential. All things considered, he believes it is a mistake to allow this commercial, especially in light of the interest in continuing to make that corridor a very attractive entrance to Lincoln.

Marvin commented that the Planning Commissioners are all taking this from a different perspective, but he just does not believe that the back end next to the Trade Center and railroad is likely to develop as residential. So the question is how to buffer Country Meadows with one-acre lots and how to introduce the commercial on a busy highway. He believes that this proposal provides those options and then it puts resolution to an area that is fully developed. 84th and Adams is not fully developed. The traffic counts are huge. It is strange that we have a protective corridor on Hwy 2. We should also recognize the fact that 84th Street is clearly the east beltway for this community for the next 40 years, yet we don't have a protective corridor there.

Bills-Strand pointed out that in the 12 years, no one has been able to come forward with residential. This is a nice compromise.

Motion to deny failed 4-5: Carroll, Krieser, Carlson, and Taylor voting 'yes'; Pearson, Marvin, Sunderman, Larson and Bills-Strand voting 'no'.

Motion #2: Marvin moved approval, with staff conditions as set forth in the staff report, with the amendments requested by the applicant, seconded by Sunderman.

Motion to Amend #1: Pearson moved to amend Condition #2:

This approval permits 32 dwelling units and 235,000 square feet of commercial and office floor area, with no single building footprint to exceed 90,000 sq. ft., and waives the preliminary plat process.

seconded by Carlson.

Discussion on Motion to Amend #1: Pearson does not like the design implications of “big box”. It is a problem for a number of the reasons that have been stated by people in the room today who were against it, but she also agrees that there should be a buffer between the Trade Center and Country Meadows. Right now, we are looking at ½ acre parcels and then commercial. She cannot completely support putting in a big box. Commercial, yes, but no big box. Otherwise, she will not support the motion to approve.

Carlson stated that his concerns are about the supercenter and the effect on the community; however, he is not sure the amendment alleviates the compatibility or traffic concerns. We could have six drive-in restaurants creating the same trip problem. It is certainly worth discussion in the community and maybe something needs to be put in the Comprehensive Plan for further guidance.

Marvin stated that he does not want to create an unintended consequence. The applicant represents that their project is not going to put trip counts up at the p.m. peak. If we restrict the building envelope, we may get a different commercial activity there that puts trip counts up at the p.m. peak, which is something that we did not intend. He is very receptive to putting something in the Comprehensive Plan to be sensitive to these huge 100,000 and 200,000 sq. ft. big boxes. He is fearful of unintended consequences.

Larson agreed with Marvin. If we restrict the biggest use to 90,000 sq. ft., we might end up with a hodge-podge of things we were not anticipating.

Bills-Strand believes it is a matter of giving people choices. It is the trend nationally that the big boxes give lower prices and provide an option.

Motion to Amend #1 failed 1-8: Pearson voting ‘yes’; Carroll, Marvin, Krieser, Sunderman, Carlson, Taylor, Larson and Bills-Strand voting ‘no’.

Motion to Amend #2: Carroll moved to amend the applicant’s proposed amendment to Condition #1.1.11:

The restricted access gate across the private roadway and separating the residential district from the commercial district ~~may~~ shall be replaced with a one-way street, a round-about or other traffic calming device to be approved administratively prior to the issuance of building permits.

seconded by Pearson.

Sunderman will support getting rid of the gate and having the one-way street running east to west.

Motion to Amend #2 carried 9-0: Carroll, Pearson, Marvin, Krieser, Sunderman, Carlson, Taylor, Larson and Bills-Strand voting 'yes'.

Pearson stated that she voted for the Comprehensive Plan Amendment, but she cannot support the Planned Unit Development without restricting the size of a single user for the reasons previously stated.

Motion #2 for conditional approval, as set forth in the staff report, with the amendments requested by the applicant, with amendment to Condition #1.1.11, failed 4-5: Marvin, Sunderman, Larson and Bills-Strand voting 'yes'; Carroll, Pearson, Krieser, Carlson and Taylor voting 'no'.

Motion #3: Carlson moved to deny, seconded by Pearson and carried 5-4: Carroll, Pearson, Krieser, Carlson and Taylor voting 'yes'; Marvin, Sunderman, Larson and Bills-Strand voting 'no'. This is a recommendation to the City Council.

There being no further business, the meeting was adjourned at 2:55 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on May 25, 2005.